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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,423	03/10/2004	George Christopher Dobrin	9181	4379

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EXAMINER

BAHTA, ABRAHAM

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,423

Applicant(s)

DOBRIN ET AL.

Examiner

Abraham Bahta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 14 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said top edge" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "said top edge" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 20 recites the limitation "said top edge" in line 10. There is insufficient antecedent basis for this limitation in the claim.

It is suggested the phrase "said top edge" be changed to --both of said top edges--.

In claims 1, 14 and 20 the recitation that the mitt is "dry" prior to being contacted with water is unclear. The scope of the claim is unclear as it is not clear how dry is dry.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated

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by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-36 of copending Application No. 10/947,718 in view of Pike et al (USP 5,605,749). The limitations recited in the claims of the subject application are encompassed in the claims of the copending Application No. 10/947,718 with the exception of the non-woven high loft batting and a composition comprising no more than about 7% of water as recited in the claims of the subject application. However, it is well known in the non-woven applicator art to provide non-woven webs from high loft non-woven batting. Pike discloses one example of a non-woven web for applying similar materials as those disclosed in Otten where the highly lofty structure of the non-woven is advantageous for absorbing and carrying a large amount of active ingredients (column 7, lines 60-67).

As to the limitation that the personal care composition comprises no more than about 7% water, it would have been well within the purview of one of ordinary skill in the art to select compositions/substances with less than 7% water, only the expected results would be attained.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al (USP 6,257,785) in view of Pike et al (USP 5,605,749).

Claim 1: Otten et al teach a disposable glove comprising a front panel, a back panel having a periphery wherein the front panel and back panel meet and are secured to each other along top, side and a portion of bottom edges. The front panel has an inner surface and an outer surface that is opposite to the inner surface. The back panel has an inner surface and an outer surface that is opposite to the inner surface. See col. 3, lines 23-51. The glove further comprises an opening for inserting the user's hand. Otten et al teach the first or inner surface of the back panel and/or the second or outer surface of the front panel can comprise a fibrous material of non-woven material. See col. 4, lines 27-34. The glove is comprised of a selectively-activable sheet material which may be activated to deliver a substances such as gels, pastes, foams powder,

agglomerated particles, perils, microencapsulated liquids, waxes, suspension and liquids which may be released when exposed to contact with external surfaces. See col. 4, line 54 through col. 5, line 9 and col. 7, lines 44-51. As to the limitation that the mitt is dry prior to being contacted with water, Otten et al at col. 4, lines 27-29 disclose the mitt can function as an absorbent(dry) and/or a deliverer of embedded substances; the mitt is considered to be dry prior to any contact with water.

While Otten et al disclose a non-woven web material (column 4, line 30, column 9, line 43), Otten does not specifically disclose that the material be a high loft non-woven batting. It is well known in the non-woven applicator art to provide non-woven webs from high loft non-woven batting. Pike discloses one example of a non-woven web for applying similar materials as those disclosed in Otten where the highly lofty structure of the non-woven is advantageous for absorbing and carrying a large amount of active ingredients (column 7, lines 60-67).

It would have been obvious to one of ordinary skill in the art at the time the invention to provide the non-woven material in Otten as a high loft batting as is considered well known in the art and further exemplified by Pike in order to provide for increased absorbing and carrying of large amounts of active ingredients.

As to the limitation that the personal care composition comprises no more than about 7% water, at least some of the compositions in Otten are considered to comprise no more than 7% water, in particular the compositions which contain no water at all and the compositions in the form of gels, pastes, foams, powders, particles, etc. It would have been well within the purview of one of ordinary skill in the art to select the

substances suggested by Otten with less than 7% water, only the expected results would be attained.

As to the limitation that at least one of said first and second sheet members comprises an adjustment means to permit a variation in the size of said interior volume, to accommodate different hand size as recited in claim 1, Otten et al teach the glove may be differentially extensible wherein at least a portion of the glove extends and/contracts about a wearer's hand or wrist by utilizing a structural elastic-like film web. See col. 3, lines 52-67; column 4, lines 14-15.

Claim 2: Otten et al teach the glove may be differentially extensible wherein at least a portion of the glove extends and/contracts about a wearer's hand or wrist by utilizing a structural elastic-like film web. See col. 3, lines 52-67; column 4, lines 14-15.

Claim 4: Otten et al teach the disposable glove as described above. Otten et al do not require the glove to have a width between about 80 mm and about 125 mm; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the glove of Otten et al in a desired width, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 5-6: Otten et al teach the glove is comprised of a selectively-activable sheet material which may be activated to deliver a substances such as gels, pastes, foams powder, agglomerated particles, perils, microencapsulated liquids, waxes, suspension and liquids which may be released when exposed to contact with external

surfaces. See col. 4, line 54 through col. 5, line 9 and col. 7, lines 44-51. As to the limitation such that the first non-woven member comprises a C-folded around a nonwoven high lift batting as recited in claim 6, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have folded the non-woven material of Otten et al to ensure the mechanical strength of the glove.

Claim 11: Otten et al teaches the applicator comprises surfactants and it would have been well within the purview of one of ordinary skill in the art to select the claimed surfactants as such are considered well known and commercially available. See col. 4, lines 32-34.

Claim 12: As to the adjuvant claimed in claim 12, such adjuvant is considered well-known adjuvant in the art.

Claim Rejections - 35 USC § 103

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al (USP 6,257,785) in view of Pike et al (USP 5,605,749) as applied to claim 1 above and further in view of Shawver et al (USP 5,540,976).

Otten et al and Pike et al are discussed above in reference to claims 1-2 do not require a laminate of three layers comprising elastomeric web sandwiched between two outer layer of non-woven material; however, Shawver et al teach a personal care product such as diapers, training pants, absorbent underpants, wipers and feminine hygiene products made of a laminate of an elastomeric web material sandwiched between layer of non-woven material. See col. 4, line 66 through col. 5, line 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the panels of Otten et al with a laminate having a desired number of layers comprising an elastomeric web sandwiched between two outer layers of non-woven material in order to provide mechanical strength or stability to the panels.

Claim Rejections - 35 USC § 103

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al in view of Pike et al as applied to claim 1 above and further in view of Skews et al (USP 6,206,863).

Claims 7-8: Otten et al, Pike et al and Topjian are discussed above. Otten et al do not specifically mention that the non-woven material comprises natural fibers, synthetic fibers and combination thereof; however, Skews et al teach a mitt made of two non-woven layered sheet wherein the non-woven comprises cotton or polyester/cotton blend. See col. 6, lines 14-40.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have employed natural fibers, synthetic fibers and combinations thereof as disclosed by Skewes et al so that the mitt of Otten et al may absorb and hold a quantity of personal care composition.

Claim Rejections - 35 USC § 103

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al in view of Pike et al taken with Topjian as applied to claim 1 above and further in view of WO/03/000106.

The references to Otten et al, Pike et al and Topjian are discussed above. Otten et al do not require a polyolefin film attached to one of the inner side of the panels; however, WO '106 teaches a disposable mitt comprising a wetting side and a drying side. The wetting side of the mitt comprises a body portion (20), cuff portion (21), central portion (22) and distal portion (23). The drying side of the mitt comprises a body portion (20), cuff portion (21), central portion (22), distal portion (23) and absorbent core. The mitt has an internal cavity, which is accessible through an opening in the cuff portion, and extends inwardly to the distal portion, which is closed. The mitt has a front outer surface, a front inner surface, which corresponds to the wetting side of the mitt. The reference teaches a polyolefin film of polyethylene is attached to the inner side of the wet side in order to thermally bond the materials together. See page 6, last paragraph.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have attached a polyolefin film to one of the inner side of the panel disclosed in Otten et al in order to thermally bond the layers together as taught by WO '106.

Claim 10: WO '106 teaches the film is polyethylene. See page 6, last paragraph.

Claim Rejections - 35 USC § 103

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al in view of Pike et al as applied to claim 1 above and further in view of FR 2,813,777.

Otten et al, Pike et al and Topjian are discussed above. Otten et al do not require a printed matter on the exterior of one of the panels; however, FR '777 teaches a disposable glove comprising three superposed layer of different materials wherein the

first layer is soft non-woven light cotton fiber, the second is absorbent nonwoven wadding material and the third impermeable film. The reference (FR '777) teaches the disposable glove comprises a written material. See page 3, lines 9-10.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the desired written/printed matter to the exterior surface of one of the panels of Otten et al in order to provide usage information or for aesthetic reasons.

Claim Rejections - 35 USC § 103

Claims 14,16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al in view of Pike et al.

As discussed above in reference to claims 1 and 2, Otten et al teach the applicant's claimed invention except a nonwoven high loft batting material as recited in claim 14 and 20. As to claim 20, while Otten et al disclose a non-woven web material (column 4, line 30, column 9, line 43), Otten does not specifically disclose that the material be a high loft non-woven batting. It is well known in the non-woven applicator art to provide non-woven webs from high loft non-woven batting. Pike discloses one example of a non-woven web for applying similar materials as those disclosed in Otten where the highly lofty structure of the non-woven is advantageous for absorbing and carrying a large amount of active ingredients (column 7, lines 60-67).

It would have been obvious to one of ordinary skill in the art at the time the invention to provide the non-woven material in Otten as a high loft batting as is

considered well known in the art and further exemplified by Pike in order to provide for increased absorbing and carrying of large amounts of active ingredients.

As to the limitation that the personal care composition comprises no more than about 7% water, at least some of the compositions in Otten are considered to comprise no more than 7% water, in particular the compositions which contain no water at all and the compositions in the form of gels, pastes, foams, powders, particles, etc. It would have been well within the purview of one of ordinary skill in the art to select the substances suggested by Otten with less than 7% water, only the expected results would be attained.

As to the limitation that at least one of said first and second sheet members comprises an adjustment means to permit a variation in the size of said interior volume, to accommodate different hand size as recited in claim 1, Otten et al teach the glove may be differentially extensible wherein at least a portion of the glove extends and/contracts about a wearer's hand or wrist by utilizing a structural elastic-like film

As to the limitation that the mitt is dry prior to being contacted with water, Otten et al at col. 4, lines 27-29 disclose the mitt can function as an absorbent(dry) and/or a deliverer of embedded substances; the mitt is considered to be dry prior to contact with water.

As to the limitation that the second sheet member is a polymeric film as recited in claim 20, Otten et al at column 6, line through column 7, line 32 teach the sheet

materials may be polymeric in order to permit vapors to escape from the interior of the applicator and/or enter the applicator.

It would have been obvious to one of ordinary skill in the art at the time the invention to have provided the front or back panel of Otten et al with a polymeric material in order to permit vapors to escape from the interior of the applicator and/or enter the applicator as shown in Otten et al.

Claim 16: Regarding the limitation such that the first non-woven member comprises a C-folded around a nonwoven high lift batting, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have folded the non-woven material of Otten et al to ensure the mechanical strength of the glove.

Claim 19: Otten et al teach the applicator comprises surfactants and it would have been well within the purview of one of ordinary skill in the art to select the claimed surfactants as such are considered well known and commercially available. See col. 4, lines 32-34.

Claim Rejections - 35 USC § 103

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al (USP 6,257,785) in view of Pike et al (USP 5,605,749) as applied to claim 14 above and further in view of Shawver et al (USP 5,540,976).

Otten et al and Pike et al are discussed above in reference to claims 1-2 do not require a laminate of three layers comprising elastomeric web sandwiched between two outer layer of non-woven material; however, Shawver et al teach a personal care product such as diapers, training pants, absorbent underpants, wipers and feminine

hygiene products made of a laminate of an elastomeric web material sandwiched between layer of non-woven material. See col. 4, line 66 through col. 5, line 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the panels of Otten et al with a laminate having a desired number of layers comprising an elastomeric web sandwiched between two outer layers of non-woven material in order to provide mechanical strength or stability to the panels.

Claim Rejections - 35 USC § 103

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten et al in view of Pike et al as applied to claim 14 above and further in view of Skews et al (USP 6,206,863).

Claims 17-18: Otten et al, Pike et al and Topjian are discussed above. Otten et al do not specifically mention the non-woven material comprises natural fibers, synthetic fibers and combination thereof; however, Skews et al teach a mitt made of two non-woven layered sheet wherein the non-woven comprises cotton or polyester/cotton blend. See col. 6, lines 14-40.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have employed natural fibers, synthetic fibers and combinations thereof as disclosed by Skewes et al so that the mitt of Otten et al may absorb and hold a quantity of personal care composition.

Response to Applicant's Arguments/Remarks

The applicant argues that Otten et al fail to teach the nonwoven high loft batting material. The Examiner agrees; however, use of a nonwoven loft material in cleaning

device is well known. For example Pike et al teach a non-woven cleansing material made of highly porous and lofty structure (col. 7, lines 60-67).

With respect to Skewes the applicant argues that Skewes does not overcome lack of a teaching or suggestion of Otten et al of a nonwoven high loft batting material. The Examiner contends that Skewes is cited to show natural and/or synthetic fibers in a cleaning mitt. Skewes teaches a mitt made of two non-woven layered sheet wherein the non-woven comprises cotton or polyester/cotton blend.

With respect to Wong (WO 03/000106), the applicant argues that there is no teaching as to why one of skill in the art would modify the glove of Otten et al to include the polyolefin film of Wong when Otten et al wants to deliver a substance to the user hand and Wong wants to ensure that a substance is not delivered to the user's hand. The Examiner contends that since Otten et al at col. 5, lines 10-23 teach that, if desired for particular applications, the glove may be provided with only one active side and one inactive side, it would be desirable to provide a polyolefin/polyethylene film to the inner side of one of the materials of the glove so that the inner side of the panel may be impervious to fluids and protect the user's hand.

The applicant argues that Piquet (FR 2,813,777) fails to provide the missing disclosure of Otten et al with regard to the high loft and less than 7% water limitations. In response the argument regarding the Piquet reference, the Examiner notes that the Piquet reference is cited to show for it's teaching of a disposable glove comprising a written material. It would have been obvious to the skilled artisan to have provided the

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desired written/printed matter to the exterior surface of one of the panels of Otten et al in order to provide usage information or for aesthetic reasons as taught by Piquet.

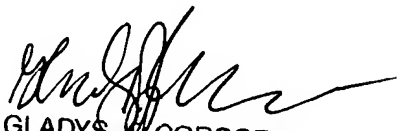
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abraham Bahta whose telephone number is (571) 272-1532. The examiner can normally be reached on Monday - Tuesday; 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A. Bahta
07/05/06



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SUPERVISORY PATENT EXAMINER